

1 Remarks

2 Amendments to the claims

3 Claims 20-29 and 36 have been cancelled as indicated above.

4 New claims 37-65 have been added as provided above. In particular, new
5 claim 37 corresponds to claim 26 (now cancelled) rewritten in independent form and
6 including all of the limitations of claim 20 (now cancelled) upon which claim 26
7 depends. Also, new claim 46 corresponds to claim 28 (now cancelled) rewritten in
8 independent form and including all of the limitations of claim 20 (now cancelled)
9 upon which claim 28 depends. New claims 38-45 depend upon new claim 37, while
10 new claims 47-53 depend upon new claim 46. New claim 54 (and new claims 55-65
11 that depend thereon) recites limitations supported within the specification as
12 originally filed.

13 Support for new claims 37-65 can be found at least in the specification at
14 page 2, line 20 to page 29, line 18. No new matter has been introduced by way of
15 new claims 37-65. The Applicants assert that new claims 37-65 are patentably
16 distinct and are allowable.

17
18 Claim Objections

19 Claim 23 (now cancelled) stands objected to due to informalities. Specifically,
20 claim 23 recites "the wall element..." wherein claim 21 from which claim 23 depends
21 includes no such element or limitation. As claim 23 has been cancelled as indicated
22 above, the Applicants believe that this objection is now moot.

23
24 Rejection of Claims under 35 U.S.C. § 102

25 Claims 20, 22, 26, 27 and 36 (now cancelled, respectively) have been
rejected under 35 U.S.C. § 102(b) as being anticipated by Ino et
al. (JP-03013691-A). As claims 20, 22, 26, 27 and 36 have been cancelled as

1 indicated above, the Applicants believe that the respective rejections of claims 20,
2 22, 26, 27 and 36 are now moot.

3
4 Rejection of Claims under 35 U.S.C. § 103(a)

5 Claims 21 and 23 (now cancelled, respectively) have been rejected under 35
6 U.S.C. § 103(a) as being unpatentable over Ino et al. (JP-03013691-A), in view of
7 U.S. Patent No. 4,973,197 to Dallimer et al.

8 Claims 24 and 25 (now cancelled, respectively) have been rejected under 35
9 U.S.C. § 103(a) as being unpatentable over Ino et al. (JP-03013691-A), in view of
10 U.S. Patent No. 4,973,197 to Dallimer et al., in further view of Ino et al.
11 (JP-03017311-A).

12 As claims 21 and 23-25 have been cancelled as indicated above, the
13 Applicants believe that the respective rejections of claims 21 and 23-25 are now
14 moot.

15
16 Allowable Subject Matter

17 The Examiner has indicated that claims 28 and 29 (now respectively
18 cancelled) are objected to as being dependent upon a rejected base claim, but would
19 be allowable if rewritten in independent form including all of the limitations of the
20 base claim and any intervening claims (page 6 of Office Action).

21 New claim 46 corresponds to claim 28 (now cancelled) rewritten in
22 independent form and includes all of the limitations of claim 20 (now cancelled) from
23 which claim 28 depends. Furthermore, new claim 47 corresponds to claim 29 (now
24 cancelled) rewritten to depend upon new claim 46. Thus, the Applicants assert that
25 new claim 46, and new claims 47-53 that depend thereon, are allowable.

1 Initial Observations

2 In the interest of cooperation and expedient prosecution toward the allowance
3 of new claims 37-53, the Applicants offer the following initial observations and
4 assertions with respect to the Examiner-cited references of the pending Office
5 Action:

6 Regarding new independent claim 37, Ino et al. (JP-03013691-A; hereinafter,
7 Ino '691) fails to provide, teach or suggest driving sheet piling to define an inner
8 perimeter and an outer perimeter for the continuous concrete slab to thereby place
9 the first and second portions in general vertical alignment with one another, as
10 recited in combination with the other features and limitations of new claim 37. In
11 fact, Ino '691 fails to provide, teach or suggest the driving of sheet pilings, in any
12 context.

13 Furthermore, Ino et al. (JP-03017311-A; hereinafter, Ino '311) fails to cure the
14 deficiencies of Ino '691. In particular, Ino '311 fails to provide, teach or suggest
15 driving sheet piling to define an inner perimeter and an outer perimeter for the
16 continuous concrete slab to thereby place the first and second portions in general
17 vertical alignment with one another, as recited in combination with the other features
18 and limitations of new claim 37. Rather Ino '311 is directed to substantially the same
19 subject matter as Ino '691 (i.e., the underground walls 10 and 20 of Ino '311 are
20 substantially analogous to the underground walls 1 of Ino '691, etc.). In any case,
21 Ino '311 fails to provide, teach or suggest the driving of sheet pilings, in any way or
22 for any purpose.

23 Further still, U.S. Patent No. 4,973,197 to Dallimer et al. (hereinafter,
24 Dallimer) fails to provide teach or suggest driving sheet piling to define an inner
25 perimeter and an outer perimeter for the continuous concrete slab to thereby place
the first and second portions in general vertical alignment with one another, as
recited in combination with the other features and limitations of new claim 37.

1 Rather, Dallimer is directed to burying silos wherein each silo is equipped with a
2 cutter 28 and a fluid-inflatable sleeve 214. In any case, Dallimer is completely
3 devoid of sheet pilings in any context.

4 For at least these reasons, the Applicants assert that new independent claim
5 37 is allowable. As new claims 38-45 depend upon new claim 37, they too are
6 allowable by virtue of their dependence upon an allowable base claim.

7 With respect to new independent claim 54, neither Ino '331 nor Ino '691
8 provides, teaches or suggests fabricating a subterranean structure wherein no wall
9 element of the subterranean structure is provided until after at least some of
10 the concrete slab has been formed, as recited in combination with the other
11 features and limitations of new claim 54. To the contrary, both Ino '331 and Ino '691
12 teach that underground wall elements (i.e., walls 10 and 20 of Ino '331; walls 1 of Ino
13 '691) are formed or otherwise provided prior to formation of any other structural
14 elements. This is not the same as method recited by new independent claim 54.

15 Dallimer fails to cure the deficiencies of the Ino '331 and Ino '691 references.
16 Specifically, Dallimer fails to provide, teach or suggest fabricating a subterranean
17 structure wherein no wall element of the subterranean structure is provided until
18 after at least some of the concrete slab has been formed, as recited in
19 combination with the other features and limitations of new claim 54. In fact, Dallimer
20 is completely devoid of a concrete slab, in any context. Thus, Dallimer does not
21 teach or suggest waiting to provide a wall element for a subterranean structure until
22 after at least some of a concrete slab of that structure is formed.

23 In view of the foregoing, the Applicants assert that new independent claim 54
24 is allowable. As new claims 55-65 depend upon new claim 54, it is axiomatic that
25 they too are allowable.

1 Request for Extension of Time

2 The applicant hereby requests a two (2) month extension of time under 37
3 C.F.R. § 1.136(a) to respond to the current Office Action, to and through August 29,
4 2004. The fee for the two month extension is enclosed herewith.

5
6 Fees for Additional Claims

7 The fee for 9 additional dependent claims is enclosed herewith.

8
9 Summary

10 The Applicants believe that this response constitutes a full and complete
11 response to the Office Action. Therefore, the Applicants respectfully request
12 examination on the merits of new claims 37-65 in favor of timely allowance thereof.

13 The Examiner is respectfully requested to contact the below-signed
14 representative if the Examiner believes this will facilitate prosecution toward
15 allowance of the claims.

16
17 Respectfully submitted,

18
19 Matthew F. RUSSELL

20 Robert L. RUSSELL

21
22 Date: August 24, 2004

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Amendment "B"